

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Revision Petition – Srikakulam District – Revision Petition filed by Smt Allu Swarajyalakshmi, Wife Sri Rama Rao, Resident of Challapeta Rajam Village of Ranasthalam Mandal - Srikakulam district against the orders of the Joint Collector, Srikakulam Proceedings No.3218/ 2002/E2., Dated 11-10-2002 – Case Called for Hearing on 23-01-2010 -- Heard the Case - Revision Petition Dismissed – Orders – Issued.

REVENUE (ASSIGNMENT -I) DEPARTMENT

G.O.Ms.No. 163

Dated: 23- 02- 2010

Read: the following:-

- 1) Revision Petition filed by Smt Allu Swarajyalakshmi, Wife Sri Rama Rao, Resident of Challapeta Rajam Village of Ranasthalam Manda - Srikakulam district, Dated 20-04-2003.**
- 2) Govt.Memo.No.22422/ Assn.I(1)/ 2003-1/. Revenue Department, Dated 13.5.2003**
- 3) From the Collector, Srikakulam Dist. Lr.No. 1993 / 03/ E2, Dated. 21-10-2005.**
- 4) Notice for hearing in Govt.Memo.Memo.No.22422/ Assn.I(1)/ 2005, Revenue Department, Dated 18-08-2006, 13.11.2006, 5.1.2007, 29-01-2007, 31-08-2007, 11-09-2007, 23-10-2007, 23-02-2008, 18-08-2008, 31-10-2009, and last and final Hearing Notice Dated 27-11-2009.**
- 5) From the Tahsildar, Ranasthalam Mandal, Srikakulam district, Rx.No.66/ 2005.,A, Dated 12.1.2010 addressed to the Joint Secretary to Government, Revenue (Assignment-I) Dept.**

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ORDER :

Smt Allu Swarajyalakshmi, Wife Sri Rama Rao, Resident of Challapeta Rajam Village of Ranasthalam Mandal has preferred an appeal against the orders of the Joint Collector, Srikakulam, in his proceedings Rc.No.3218/02/E2, dt.11-10-2002 on the following main grounds:

- (a)The Respondents i.e., Joint Collector,/ RDO/ MRO ought to have seen that the petitioner purchased the land from the legal heirs of the 4th respondent for valid consideration of Rs.14,500/- and they were executed a sale deed in favour of the petitioner and paying cost to the Government since the date of purchase the petitioner has been in possession and enjoyment of the land and he is bonafide purchaser.**
- (b)The Respondents ought to have seen that as per the law of Adverse possession are cannot claim his own property after 12 years. In the instant case, the lands in question the petitioner has been enjoyed the land since the date of purchase i.e.,3-10-1986 i.e., for the last 16 years without interruption of anybody.**
- (c)The 1ST Respondent i.e., Joint Collector, ought to have seen that MRO has no right to issue notice after lapse of 12 years and the 4th Respondent has also no right to restore the land when the legal heir of the 4th Respondent soled the land by way of registered document long back.**
- (d)The Respondents ought to have seen that the petitioner by spending huge amount on it by removing bushes, stones, hills etc and make it cultivatable land. Due to increase the market value of the land, the Vendors and their men in order to grab the property, they made a false complaint to the higher authorities, one way or the other to causing wrongful loss to the petitioner and wrongful gain to the vendors.**
- (e)Respondents ought to have seen that the Vendors and their Men known fully well that the lands purchased by the petitioner s assigned lands and they stated that the land in question is Zeroiti suppressed the real facts and cheated the petitioner and as well as Government and they sold the land by way of registered document.**

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- (f) Respondents ought to have seen that the Vendors and their family have got Ac.50-00 of D-Patta lands to their family members, and also Zeroiti lands and the VM of Challapeta Rajam and his son who is presently working as Asst.Secretary of Mentada village., willfully deceived the Government and obtained D-Pattas by misusing the administrative powers vested on them.**
- (g)The Joint Collector ought to have seen that the petitioner is not having any land and there is no proof that she is rich without looking into the material erroneously held that she is rich.**
- (h)The Respondents ought to have seen that according to Section 5 of the AP Assigned lands POT Act 1977, that the Dist.Collector permission is required for registration of assigned lands by the Registrar prior to the Registration of the lands and in the present case as the Vendor or the Registrar did not intimate to the petitioner.**
- (i) The present case will not attract the provisions of the POT Act.**
- (j) Therefore the petitioner has filed petition before the Government to set-aside the proceedings of the Joint Collector in Rc.No.3218/2002/E2., dated 11.10.2002, and the proceedings of the RDO in Rc.No.3618/2001/G, Dated 18.7.2002 and proceedings of the MRO in Rc.No.330/A/2001., Dated 29.11.2001. and to issue pattas in favour of the petitioner.**

2. In the reference 2nd read above, the Dist.Collector, Srikakulam was requested to send a detailed report along with the connected records to Government, immediately for taking further necessary action on the RP filed by the Applicant.

3. In the reference third read above, the Collector, Srikakulam district has submitted a report to Government, and submitted a Record in D.Dis.No.3218/02.

Brief details of the case are as follows:-

4. As seen from the records of the Joint Collector, Srikakulam, in Proceedings Rc.No.3218/ 2002,E2., Dated 11.10.2002, it was observed that Smt Chilla Appayya, S/o Sri Gurayya was granted a D-patta to an extent of Ac 2-63 Cts in Survey No.33/2 (old) of Ch.Rajam village vide DC No. 2675/77, Dated 24.1.1968 by the then Tahsildar, Chipurupalli in Sy.No.33/2 Ac.2-63 Cts and Sy.No.49/12 Bfor Ac.0-08 Cts totally to Ac.2-71 Cts and that the D-Patta land in was in possession and enjoyment. At the time of grant of D-Patta, the assigned land is barren and the Assignee putting efforts spent huge amount and make it a cultivable land. The Assignee has no issues and he adopted his brother's son, and later Sri Ch. Appaiah died. After death of original Assignee, Sri Ch Asirinaidu came into possession. Sri Alla Rama Rao, the husband of Sri A. Swarajyalakshmi, (the present Revision petitioner) who is a landed rich tress passed the land and unauthorizedly occupied. Then Sri CH. Asirinaidu approached the MRO, Ranasthalam to give back the land and that the MRO after thorough enquiry into the matter issued proceedings for eviction on 29-11-2001 directing the appellant to vacate the land. The MRO directed the MRI, and VAO and notices were served on the revision Petitioners and the same was published by beat of tom-tom and on 21-12-2001 the land was e-delivered to Sri Ch. Asirinaidu by the Mandal Surveyor duly obtaining delivery receipt. The Revision petitioner filed an Appeal before the RDO, Srikakulam by suppressing all the facts and got obtained stay orders on the proceedings of the MRO on 31.12.2001. After perusing the records, the learned RDO vacated the stay orders and that the appeal was disposed off by dismissing the Appeal and that the land in question is in the possession of Sri Ch.Asirinaidu.

5. The Revision Petitioner purchased the assigned land on 11-03-1986 under Regd Sale Deed No.18/ 87 Dated 5.1.1987 and that the POT Act came into Force w.e.f. 21-1-1977. According to Section4 (1) (b) of the POT Act, the sale deed is null and void. The AP High Court gave decision in 1993 (3) Act 125 (DD) and according to that decision the assigned land is to be restored to the original assignee which will apply to this case also.

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6. Accordingly, the Joint Collector in his Proceedings 3218/ 2002/E2., Dated 11.10.2002 has uphold the orders issued by the RDO, Srikakulam in Procs No.3619/ 2001, G., Dated 19.7.2002

7. The Petitioner has filed an Appeal before the Commissioner of Appeal, Hyderabad and the appeal was rejected on the ground that the Appeal is not maintainable for want of jurisdiction vide CCLA, Ref No. BCW 5/ 18/ 2003., dated 22.1.2003.

8. Aggrieved by the orders of the Joint Collector, Srikakulam, Smt Allu Swarajya Lakshmi wife of Sri Rama Rao alleged purchaser filed RP before the Government.

9. The Collector, Srikakulam has furnished his remarks on grounds of the Revision Petition as follows:

(a)the contentions of the Revision petitioner are not correct. The Joint Collector, SKLM has passed orders judicially after following the procedure and hence maintainable.

(b)The Revision Petitioner willfully purchased the land as she well aware that the land is an assigned land and he alleged sale deed is after introduction of Act 9/1977.

(c)The petitioner cannot claim adverse possession since the alleged transaction itself null and void as per Act 9/1977.

(d)It was also reported that it is not correct to say that for the fault of others, the petitioner should not be suffered. The Government have in no way concerned in the transaction under took between the Revision Petitioner assigned and the Assignee. The Revision petitioner ought to have ascertain and verify the title and other records before purchasing the said land. The Revision petitioner is well aware that the land is an assigned and land willfully engaged to purchase the land.

(e) The petitioner has not produced any evidence in his favour.

(f) The said land purchased by the petitioner against the rules and norms. Since the Revision Petitioner purchased the assigned lands in contravention to Act 9/77 the MRO has rightly took action to resume the lands to the original assignee.

10. The Dist. Collector, SKLM has therefore requested the Government to dismiss the Revision Petitioner filed by the present Revision petitioner.

11. An opportunity of hearing was given to the Petitioner and the case was called for hearing on 18-02-2006, 02-09-2006, 07-10-2006, 16-12-2006, 27-01-2007 17-02-2007, 14-09-2007, 27-10-2007, 31-05-2008, and finally on 21-11-2009 23-01-2010 at 4-00 PM.

12. The Advocate for Petitioner, and the Dy.Tahsildar, Ranasthalam Mandal were present.

13. Heard the arguments of the Advocate for the Petitioner, and perused the records submitted by the Collector, Srikakulam.

14. After perusal of the records and the report of the Lower Courts, it was observed that the contention of the Revision petitioner is not correct since Section 3 (2) of Act of 9/77 prohibits transfer of assigned lands by way of sale, gift, mortgage, exchange, lease or otherwise and no right or title in such assigned lands shall vests in any persons acquiring the land. As per Section 3 (3) of the Act any transfer or acquisition made in contravention of provision of Sec.3 (1) and 3 (2) shall be deemed to be null and void.

15. It was also observed that the Revision petitioner is well aware that the land is an assigned and land willfully engaged to purchase the land.

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16. The petitioner has not produced any evidence in his favour. The said land purchased by the petitioner against the rules and norms. Since the Revision Petitioner purchased the assigned lands in contravention to Act 9/77, the MRO has rightly resumed the lands to the original assignee. Therefore the Revision Petition deserves no consideration and liable to be dismissed.

17. Accordingly, the Revision Petition by Smt Allu Swarajya lakshmi, Wife of Sri Rama Rao, Resident of Chillapeta Rajam Village of Ranasthalam Mandal - Srikakulam district is hereby dismissed.

18. The District Collector, Srikakulam shall take necessary action.

19. The Original records sent by the Collector, Srikakulam in D.Dis.No.3218/2002, containing NF-10 Pages / CF 1-110 are herewith returned to the District Collector, Srikakulam, and he is requested to acknowledge the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**RAJESHWAR TIWARI,
SECRETARY TO GOVERNMENT**

To

The District Collector, Srikakulam.

(with the Original Records)

Smt Allu Swarajyalakshmi, Wife Sri Rama Rao, Resident of Challapeta Rajam Village of Ranasthalam Mandal - Srikakulam district

Sri Aravala Rama Rao, Advocate,

12-2-617/A/6, Gudimalkapur, Mehdipatnam, Hyderabad. 500 028.

Copy to the Commissioner, Appeals, O/o the CCLA, Hyderabad.

Copy to the Joint Collector, Srikakulam district.

Copy to the Tahsildar, Ranasthalam Mandal, Srikakulam district.

Copy to the PS to Secretary to Govt.(RT), Revenue Dept.

Stock-file.

//FORWARDED::BY ORDER//

SECTION OFFICER.